

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

AARON JOHNSON,

Petitioner,

v.

//

CIVIL ACTION NO. 1:08CV179
(Judge Keeley)

WAYNE PHILLIPS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On September 24, 2008, pro se petitioner, Aaron Johnson, ("Johnson") filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a Report and Recommendation ("R&R") in accordance with Local Rule of Prisoner Litigation 83.09.

On January 9, 2009, Magistrate Judge Seibert issued an R&R recommending that this Court deny the petitioner's motion for summary judgment, grant the respondent's motion to dismiss and dismiss the petition with prejudice. The R&R specifically warned that failure to object to it would result in the waiver of any appellate rights on this issue. Nevertheless, Johnson failed to file any objections.¹

¹ Johnson's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

ORDER ADOPTING REPORT AND RECOMMENDATION

Accordingly, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 13), and **DENIES** the petitioner's motion for summary judgment (dkt. no. 7), **GRANTS** the Respondent's motion to dismiss (dkt. no. 8) and **ORDERS** the case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

The Court directs the Clerk to mail a copy of this Order to the pro se petitioner, certified mail, return receipt requested, and to transmit copies of this Order to counsel of record.

Dated: February 6, 2009.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE